IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

Cr.Appeal *No.538 of 2000*

Date of Decision : 8.10.2007

State of H.P.. …Appellant

Versus:

Veena Devi …Respondent

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellant : Mr. Ashok Chaudhary, Addl.A.G.

For the respondent : Mr. Virender Rathore, Advocate

Sanjay Karol, J. (oral)

The present appeal arises out of the judgment dated 7.2.2000 passed by the Judicial Magistrate Ist Class(II), Dharamshala, in Criminal Case RBT No.2-II/99/98 titled as State v. Veena Devi, acquitting the accused of the charged offence.

As per the case of the prosecution, on 2.7.1998 at about 8. A.M. accused Veena Devi was passing through the fields of complainant Udham Singh (PW-1) to which he objected. At that accused started abusing him and returned back to her house. However, after some time, on the call of his family

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

members, while PW-1 was on way to his house, the accused again came and abused him to which he objected and at that time the accused brought a darat (sharp edged weapon) from her house and hit PW-1 on his forehead and mouth. He became unconscious and his wife Chanchla Devi, sister-in-law Ram Pyari and Kanto Devi came at the spot and rescued him from the accused. Rapat u/s 154 Cr.PC (Ext.PW-6/A) was recorded and FIR No.99/98 dated 2.7.1998 (Ext.PW-7/A) was registered with Police Station, Shahpur u/s 324 IPC.

The investigation was carried out and the complainant was medically examined. With the completion of the same, the challan was presented in the Court for trial. Having complied with the provisions of Section 207 Cr.PC, the accused was charged for an offence u/s 324 IPC, to which he did not plead guilty and claimed trial. In order to prove its case, the prosecution examined 9 witnesses. Statement of accused u/s 313 Cr.PC was also recorded and in defence, one witness was also examined by the accused.

After considering the material on record and also the deposition of the witnesses, the Court below came to the conclusion that the case of the prosecution was doubtful in view of the fact that there was a cross complaint in relation to the same incident that the parties had been litigating even prior to the incident.

This was more so as the statements of the witnesses were contradictory and did not inspire confidence.

The case of the prosecution needs to be looked with greater scrutiny as it has come on record that the accused herself had injury on her body which duly stands proved through the statement of Dr. Neeraj Singhla (DW-1) who has deposed that the same could be caused by a blunt weapon or by fist blows.

Shri Udham Singh (PW-1) is the injured-complainant. He has admitted that there is a civil litigation between the parties. Smt. Chanchla Devi (PW-2) is the wife of PW-1. Shri Ran Singh (PW-3) is an independent witness. Dr. Alok Singhla (PW-4) has examined PW-1. Smt. Kanto Devi (PW-5) is also an independent witness. HC Daleep Kumar (PW-6), ASI Ranjeet Singh (PW-7) and SI Dharam Chand (PW-8) are formal witnesses. HC Mohinder Singh PW-9 has carried out the investigation.

PW-2 has admitted that neither any quarrel nor any injury was caused in her presence and she has corroborated the version of her husband PW-1 only on the basis of information given to her by him. It has come on record through the statement of PW-1, that he and his family members had also been released on bail in cross case filed by the present accused. Ext.PW-6/A is the rapat i.e. first information given to the police in which it is stated that PW-1 became unconscious upon

receiving the injury caused by the accused. This fact, however, stands contradicted in his deposition before the Court. In Ext.PW-6/A, it is clearly mentioned that PW-1 was rescued by Smt. Chanchla Devi (PW-2), Smt. Ram Pyari and Smt. Kanto Devi (PW-5). However, his version in the Court is different as he has stated that on the spot PW-2 and Smt. Ram Pyari came, who snatched the darat from the accused. This version stands further contradicted by PW-2 as according to her, darat was snatched by her, Smt. Kanto Devi and Ram Pyari.

Further, PW-2 & PW-5 have admitted that no injury was caused in their presence by the accused nor quarrel took place between the accused and the complainant in their presence. Through the statement of Shri Ran Singh (PW-3), it has come on record that darat Ext.P-1 was given by him to Smt. Chanchla Devi before it was handed over by her to the police. The presence of Shri Ran Singh at the time of occurrence is not corroborated by any material on record. In fact none of the witnesses have deposed to this effect. It has come on record through the statement of PW-9 that he is related to PW-1. Therefore, the Court below rightly did not give much weight to his deposition.

Keeping in view the absence of any explanation for the injuries on the body of the accused, the Court below, in my view, rightly disbelieved the version of the prosecution and found the case to be full of suspicion and doubtful. The accused

have the advantage of having been acquitted. There is nothing on record to show that the Court has perversely appreciated the material on record while arriving at its conclusion.

For the aforesaid reasons, I see no reason to interfere with the judgment rendered by the Court below after correctly appreciating the depositions of the witnesses as also the material on record. The appeal is accordingly dismissed.

October 8, 2007. **(Sanjay Karol)**
(rana) **Judge.**